

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HOUSING ENTERPRISE INSURANCE
COMPANY, INC.,

Plaintiff,

v.

HOPE PARK HOMES LIMITED
DIVIDEND HOUSING ASSOCIATION
LIMITED PARTNERSHIP, et al.,

Defendants.

Civil Action No. 5:18-cv-14022-JEL-SW

Judge Judith E. Levy

Magistrate Judge R. Steven Whalen

STIPULATED ORDER REGARDING DISCOVERY

The Court having conferred with counsel for all parties on August 5, 2020 with respect to discovery in general and several specific discovery disputes, counsel having conferred among themselves thereafter, and counsel for all parties having stipulated to the following:

IT IS HEREBY ORDERED that:

1. All parties stipulate and the Court finds that the second exception to plaintiff's pollution exclusion, namely with respect to whether a fire broke out from where it was intended to be located ("Second Exception"), is not at issue and does not apply under the facts of this case. Defendants Frederick Agee and Tammy Greenlee individually and as parent and natural guardian of T.G., a minor, and T.A., a minor (the "Underlying Plaintiffs") and defendants KMG Prestige, Inc.,

and Affinity Property Management (“the KMG Parties”) (collectively "Agee Defendants") stipulate that a fire did not break out beyond or outside of the exterior of the furnace in question and the Second Exception to plaintiff’s pollution exclusion does not apply under the facts of this case.

2. Discovery may continue and shall be completed by May 31, 2021.

3. Given the relatively narrow issues remaining in this case the Court finds initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) are not appropriate or necessary and relieves all parties from the necessity of making such initial disclosures in this case.

4. Within 10 days following entry of this Order, counsel for plaintiff shall withdraw as moot in writing each of its July 1, 2020 requests for admission (and any other discovery request) to the extent directed solely to the Second Exception to plaintiff’s pollution exclusion.

5. Within 14 days after plaintiff indicates which requests for admissions (and/or other discovery requests) it is withdrawing pursuant to the preceding paragraph, the Agee Defendants shall provide substitute responses and/or stipulations to plaintiff’s July 1, 2020 requests for admissions, follow-up interrogatories, and requests for production of documents to the extent not withdrawn.

6. Plaintiff may depose the Agee Defendants' proposed expert, Dr. Damm, by Zoom or equivalent remote deposition protocol.

7. The Agee Defendants may depose plaintiff's proposed expert, Michael J. Kroll, M.S., by Zoom or equivalent remote deposition protocol.

8. Following further discovery, plaintiff and defendant StarStone each may submit a supplemental brief in response to the Agee Defendants' pending Motion for Partial Summary Judgment filed against plaintiff (ECF No. 84). The Agee Defendants may file a supplemental reply to plaintiff's and/or StarStone's supplemental response brief(s) within 14 days thereafter. Each supplemental brief is limited to 10 pages.

9. All further dispositive motions shall be filed by June 30, 2021.

10. The Court will issue a scheduling order consistent with the above dates and include trial-related dates.

IT IS SO ORDERED.

Date: January 4, 2021

s/Judith E. Levy
United States District Judge

So stipulated:

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